

# Notice of Allowability

Application No.

10/090,086

Examiner

John R Hardee

Applicant(s)

SHANA'A ET AL.

Art Unit

1751

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-27.
3. ☐ The drawings filed on \_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |   |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. ____.             |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. <u>070303 and 06182002</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

John R Hardee  
Primary Examiner  
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**DETAILED ACTION**

***Election/Restrictions***

1. The compositions claims having been found allowable, the restriction requirement is WITHDRAWN.

**EXAMINER'S AMENDMENT**

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Alan Bornstein on December 18, 2003.

The application has been amended as follows:

Claim 25 was made dependent from claim 24.

Claim 27 was made dependent from claim 26.

***Allowable Subject Matter***

3. Claims 1-27 are allowed.
4. The following is an examiner's statement of reasons for allowance: The closest prior art of record is Shana'a, US 5,851,978, Simonnet et al., US 6,342,238; Ribier et al., US 6,071,524 and WO 97/32568. The compositions of Shana'a are not disclosed as being gels, nor are those of the WO. The compositions of Simonnet are gels, but the gel is not in the form of particles. The Ribier compositions contain gelation agents which do

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not appear to meet the melting point limitations of the claims. Accordingly, the claims are allowable over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any prior art made of record and not relied upon is of interest and is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



John R. Hardee  
Primary Examiner  
December 18, 2003